

Miami-Dade County Charter Review Task Force

Final Report

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Table of Contents

	<u>Page</u>
I. Introduction	3
II. Recommendations	4
A. Board of County Commissioners	4
B. Office of the Mayor	4
C. County Manager	5
D. Municipalities and Incorporation	6
E. Elections, Initiative, Referendum and Recall	6
F. Administrative Organization and Other Issues	7
G. Technical Changes	7
H. Recommendations Not Approved by Task Force	8
III. Conclusion	9
IV. Attachments	
A. Draft Charter with recommended technical changes	
B. Minority Report	

Introduction

Two years ago, the Board of County Commissioners created the Charter Review Task Force to review the entire Miami-Dade Home Rule Charter, and make recommendations for amendments or revisions. The Charter requires the periodic creation of such a Task Force to ensure the Charter itself is regularly reviewed and updated if necessary. The Task Force, pursuant to Ordinance 99-56, consists of 13 members, comprised of each County Commissioner or his or her designee. In accordance with Ordinance 01-63, the Task Force's recommendations are included in this final report.

The Task Force held more than 25 public meetings and discussed a wide array of very important issues, such as: the separation of powers between the Board of County Commissioners, Mayor and County Manager; municipal incorporation and annexation; the administration of County government; park land and facility regulations; and local elections. Three public hearings were held at the West Dade Regional Library, the North Dade Regional Library, and the South Dade Government Center to gather suggestions and comments from the citizens of Miami-Dade County. Information about the Miami-Dade County Home Rule Charter and the Charter Review Task Force and the preliminary recommendations for amendments were made available for review on the County's website at <http://www.co.miami-dade.fl.us/charter>. This final report is also available at that site.

The Charter Review Task Force moved sequentially through the Charter twice, reviewing all sections for potential amendments. Task Force members made suggestions for fundamental policy changes, but also reviewed the Charter for technical adjustments. The Task Force held discussions with Mayor Alex Penelas, Representative Carlos Lacasa, and Dan Paul, one of the original architects of the Charter. A comprehensive list of recommendations was developed and Task Force members worked to cull down the list to those recommendations most important for the future of Miami-Dade County.

In the first part of the report, the Charter Review Task Force has made recommendations regarding the powers of Miami-Dade County, the Board of County Commissioners, the Mayor, the County Manager, municipalities and incorporation, initiative, referendum and recall, and administrative organization. This report details the specific recommendations and, in general, the issues surrounding the recommendation and its purpose. Each recommendation received the support of a majority of the Task Force members.

The second part of this report (Attachment A) is a formal rewritten Charter to illustrate only those technical changes recommended by the Task Force. It does not provide formal Charter language related to the recommendations in the first part, nor does it contain specific ballot language. It was believed better to leave those tasks to be completed after the Commission's review. The Charter Review Task Force served at the pleasure of the Board to identify potential areas for Charter amendments. It is the prerogative of the County Commission to determine those areas for which it feels amendments should be placed on a ballot for voter consideration. Once those areas are identified, Charter and ballot language would appropriately be developed. We are prepared to assist the Board should it desire, through the balance of the process.

A minority report provided by one of the 13 members of the Charter Review Task Force has been prepared offering alternative amendments in several areas (Attachment B).

Recommendations

The Charter Review Task Force compiled a list of suggested revisions to the Charter. These revisions include both fundamental policy changes detailed in the first part of the report, as well as technical and “housekeeping” changes (Attachment A). The Task Force considered carefully those powers enumerated in the Charter to ensure that they were neither too restrictive nor too broad as to preclude the provision of the most efficient and effective services to the citizens of Miami-Dade County, as well as to ensure an appropriate balance of power among the different branches of Miami-Dade County government. The following also details recommendations considered carefully but not approved.

Board of County Commissioners

Many issues were discussed related to the composition and powers of the Board of County Commissioners. The final recommendations of the Task Force regard reapportionment and redistricting, Commission salaries, vacancies, the organization of the Board and public hearings.

- The Task Force recommends that **a provision be included in the Charter requiring that Commission ordinance, the Board be required to hold a meeting regarding redistricting and reapportionment, similar to the standards for state and federal legislatures.**
- The Task Force recommends **that the provisions for Commission salaries be removed from the Charter and that Commission salaries be determined pursuant to state law.** The Task Force also recommends that **the Charter be revised to remove the Board’s ability to appoint new members in favor of a special election to be held within 90-120 days of a vacancy. A special election should not be required if a general countywide election will occur within 180 days of a vacancy.**
- The Task Force feels that the Board should have the power to organize itself. To that end, it recommends that **the Commission should be permitted to establish its own rules of procedure, including the ability to organize itself and select a Chairperson and Vice Chairperson, and to establish Commission Committees. These actions should not be subject to Mayoral veto. If the Board establishes Commission Committees, the Task Force also recommends that certain public hearings should by ordinance be permitted to be before either the Committees or the full Board.**

Office of the Mayor

- The process for filling a vacancy in the Office of the Mayor is not provided in the Charter. The Task Force recommends that, **in the absence of a Mayor, the Chairperson of the Commission should be appointed as Acting Mayor until a new Mayor is selected by a special election and the Vice-Chairperson of the Commission should be appointed as the interim Chairperson. The recommended process continues with a special election to**

be held within 90-120 days to fill the vacancy. If the Acting Mayor chooses to run for Mayor, he or she would relinquish his or her position as Chairperson of the Commission and a special election would be held for that Commission seat on the same date as the Mayor special election. Should the Acting Mayor choose not to run for Mayor, he or she would return to the position of Chairperson once a new Mayor has been elected.

- The Task Force recommends that **the provisions regarding the Mayor's responsibilities be amended to require the Mayor's budget message be more priority setting in nature and occur in March, earlier in the budget process. Between June 1 and July 15, the County Manager should present the proposed budget. The Mayor's response to this proposed budget should be presented by the end of July, before the Board adopts the tentative millage rates.**

- Members of the Task Force suggest that **the Mayor's veto power should be limited to ordinances dealing with general legislation and appropriation of funds and not be extended to resolutions dealing with rules and procedures of the Board (as mentioned above) or to quasi-judicial or zoning matters. The line-item veto with respect to budget ordinances should be retained.**

County Manager

- The Task Force discussed, but did not recommend, eliminating the position of County Manager in favor of a strong mayor. The Task Force did make some recommendations related to the Office of the County Manager. One such recommendation is that **the provision regarding the appointment of the Finance Director be amended to include the Clerk of the Courts in that appointment, as the Clerk has fiduciary responsibility per state statute.**

- The Task Force discussed the procurement process at great length. The primary concern of members of the Task Force was the influence of lobbyists on the procurement decisions made under the current rules. In this area, Task Force members felt so strongly about their recommendation, specific language was drafted to accomplish the improvements in the process they developed. **The amendment would include the following language in the Charter provision regarding the procurement of supplies, materials, and services other than professional: "Notwithstanding any other provision of this Charter, neither the Mayor nor any Commissioner nor any of their staff shall communicate with: a) the County Manager or any of the administration staff of the County or any member of a selection committee or appointed board; or b) the bidder or proposer or any representative of any bidder or proposer, regarding the solicitation, evaluation, negotiation, protest or award of any bid, RFP or RFQ other than at a public meeting of the Board or in writing."** This language was developed with the quasi-judicial standards of the zoning process in mind.

- The Task Force was also concerned with strengthening the safeguards against Commission involvement in administration matters, but didn't want to preclude the effective provision of services to constituents. A recommendation that **language should be added to the Charter indicating that County Manager or staff members' participation in violations of the**

● section of the Charter relating to these safeguards by elected officials is grounds for removal of the County Manager or the staff member was approved. However, the Task Force also recommended that **language should be added to this section that permits County Commissioner inquiries of the administration regarding constituent services.**

Municipalities and Incorporation

The preliminary recommendations in this area included a provision that requires that all pre-agreed conditions established by the Board of County Commissioners regarding a proposed incorporation be included in a proposed city's charter and that these conditions cannot be removed by the new municipality without prior Board of County Commissioners approval prior to a municipal vote. Beyond the Task Force's efforts to review the Charter and make recommendations, this provision was placed on the ballot of October 3, 2000 and passed by a majority vote of the electorate.

● The Task Force members discussed the issues of incorporation and its impacts on Miami-Dade County. In an effort to meet the desires of the citizens of the unincorporated area for more control over the governing of their community, the Task Force developed a recommendation concerning **limited purpose units of government. This amendment would allow the Board to create such units, which would be dependent to the Board of County Commissioners, subject to an affirmative vote of area residents. The units would be provided with limited municipal taxing authority, certain municipal-type powers, the ability to fund and/or provide an enhanced level of service and be restrained from providing services already provided by the County (such as police, fire, library and solid waste collection).** This local government structure would be offered as an alternative for areas desiring more local control but not wishing to pursue incorporation. This option is offered as an alternative and not a replacement to the existing incorporation process.

Elections, Initiative, Referendum and Recall

● The Task Force had many suggested revisions to the Charter related to elections, initiative, referendum and recall. One recommendation is **to include the Mayor in the list of offices subject to recall.** The Task Force also suggests that **the number of signatures required for recall be increased to 5% for countywide offices and 10% for district elected offices.** Currently, only 4% of registered voters' signatures are required. The purpose for this increase is twofold. Members of the Task Force recognized that requiring only 4% of the signatures of registered voters in a district to recall the representative from that district was not a high enough objective, as in some districts this number could be less than 5,000 voters. However, the Task Force also did not want to place too high a requirement for recall of countywide officers. Therefore, the two-tiered recommendation was developed.

● The Task Force also recommended changes in the percentage of registered voters required for initiative petitions to place questions related to ordinances on a ballot. Again, a two-tiered system is recommended. **Initiative petitions submitted with signatures of at least 5% of registered voters would be placed on the ballot of the next general election while the Board would have the option to schedule a special election for initiative petitions with the signatures of at least 10% of registered voters.** The Task Force further suggests

- that **an amendment be included to allow initiatory petitions for Charter amendments for which signatures of 10% of registered voters have been gathered to be accepted at any time and scheduled for a special election, unless submitted during a predetermined period prior to a general election.** The Charter currently provides that such amendments may only be proposed biennially, during even numbered years in which state primary and general elections are held.

- Finally, the Task Force recommended that **County elections be held in September, with runoffs, if necessary, in November, at the time of the general election.** Currently, the Charter provides that a runoff, if required, be held at the time of the second state primary, which is held in October. Members suggested that voter turnout would be higher at the time of the general election. Subsequent to the Task Force formulating this recommendation, the State Legislature passed a bill removing the second state primary during this year's session and it was signed by Governor Bush. Therefore, the objective of the Task Force's recommendation will already be in place as of 2002. A technical adjustment to the language in the Charter referring to the election process is necessary to conform to the statutory change and provide for runoffs to be held at the time of the general election.

Administrative Organization and Other Issues

- The Task Force recommended that **the position of Inspector General be included in the Charter.** This amendment should provide **that the Inspector General be authorized to perform audits and that the jurisdiction of the Inspector General be extended to include other governmental entities in the County by interlocal agreement.** At the request of the Commission on Ethics and Public Trust, the Task Force also considered and approved a recommendation that **the provision regarding the Ethics Commission be amended to remove the requirement that the Commission be made up of five members, in favor of establishing the number of members by Board ordinance.**

- Another suggested amendment approved by the Task Force concerns the language regarding the use of funding in special tax districts. Currently, the Charter restricts the use of funding in special tax districts to special district purposes. While this is a logical restriction, it creates situations that are not necessarily rational. For example, the Air Rescue function is funded by the countywide general fund. Currently, although the employees performing this function are employees of the Fire and Rescue Department, this function must reside in the countywide general fund. If the language is revised to **allow non-district funding sources for special district purposes that are regional in scope**, a transfer could be made from the countywide general fund to the Fire and Rescue district fund to support this function.
- The Task Force also approved the recommendation that **the referendum requirement for the creation of franchises be removed from the Charter.**

Technical Changes

Finally, the Task Force made many preliminary recommendations for technical and procedural amendments to the Charter. These changes include removing language related to offices no longer in existence, eliminating references to boards and departments that are no longer in existence, relocating certain items to more logical sections of the Charter, and

making all references in the Charter gender neutral. A black-lined version of the current Home Rule Charter detailing these technical changes only is included as Attachment A of this report. We believe that all technical or housekeeping changes recommended could be covered in one ballot question.

Key Recommendations Not Approved by the Task Force

Many of the ideas and suggestions developed during the Task Force's review of the Charter were not ultimately approved for recommendation to the Board. These include the abolition of the Fire Board and increasing the number of County Commission districts. The Task Force also considered changing the selection method for Commissioners and establishing term limits. A provision establishing a process to allow the Board to remove the Mayor for misfeasance or malfeasance was not approved, nor was establishing a separate counsel for the Mayor's office or abolishing the position of County Manager in favor of a strong Mayor.

Provisions to enable the Board to eliminate enclave areas without the approval of the affected municipality and to give the Board the authority to create a countywide revenue sharing program were not approved. In light of a Charter amendment approved by the electorate on October 3, 2000 regarding County – prospective new City negotiations of incorporation terms and conditions, the Task Force did not approve requiring mitigation payments or otherwise require fiscal neutrality as a condition of incorporation since such issues could be negotiated.

Conclusion

The Charter Review Task Force respectfully submits this report detailing our final recommendations. These amendments were approved for recommendation by a majority of the Task Force members. A minority report, prepared by one of the thirteen members of the Task Force, with amendments related to the position of County Manager, the provision for an internal audit function, incorporation, and Commission salaries has been submitted for your consideration, as well.

The next step in the Charter review process is at the discretion of the Board. We have presented our recommendations without submitting Charter or ballot language enabling these amendments. The Board may wish to schedule one or more workshops to discuss the proposed recommendations. During those workshops, the Board can consider Charter and ballot language pertaining to the slate of questions that may be placed on the ballot for voter approval, the organization of those questions and the timing of the election. By submitting this report in July, Commissioners will have time to review these recommendations and consider the next steps carefully prior to the next general election in November 2002. Members of the Task Force remain available to the Board to assist throughout this process.

The Charter Review Task Force would like to thank the staff of the County Attorney's Office and the County Manager's Office for their support throughout our deliberations, specifically First Assistant County Attorney Murray Greenberg, Assistant County Attorney Cynthia Johnson-Stacks, Senior Assistant to the County Manager George Burgess and Junior Assistant to the County Manager Jennifer Glazer-Moon. This has been a lengthy and deliberate process. Task Force members are appreciative of the opportunity to be involved in such an important effort for our County.

Respectfully submitted,

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